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Case No.: 98,429

**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method For Indexing And Determining The Relative Concentration Of Expressed Messenger RNA's

the specification of which is attached hereto unless the following space is checked:

☒ was filed on November 4, 1998 as United States Application Serial Number 09/186,869.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s):

	<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>
1.			
2.			

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

	<u>Application Number</u>	<u>Filing Date</u>
1.		
2.		

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

	<u>Application Number</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
1.			
2.			

I hereby appoint the following attorneys and agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

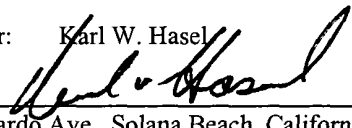
Denis A. Berntsen	Reg. No. 26707	Michael S. Greenfield	Reg. No. 37142
John J. McDonnell	Reg. No. 26949	Roger P. Zimmerman	Reg. No. 38670
Daniel A. Boehnen	Reg. No. 28399	Anthoula Pomrening (agent)	Reg. No. 38805
Bradley J. Hulbert	Reg. No. 30130	George I. Lee	Reg. No. 39269
Paul H. Berghoff	Reg. No. 30243	James M. McCarthy	Reg. No. 39296
Grantland G. Drutchas	Reg. No. 32565	Jeremy Noe (agent)	Reg. No. 40104
Steven J. Sarussi	Reg. No. 32784	Sean M. Sullivan	Reg. No. 40191
David M. Frischkorn	Reg. No. 32833	Audrey L. Bartnicki	Reg. No. 40499
James C. Gumina	Reg. No. 32898	Amir N. Penn	Reg. No. 40767
A. Blair Hughes	Reg. No. 32901	Patrick J. Halloran (agent)	Reg. No. 41053
Thomas A. Fairhall	Reg. No. 34591	Joshua R. Rich	Reg. No. 41269
Emily Miao	Reg. No. 35285	Thomas E. Wettermann	Reg. No. 41523
Kevin E. Noonan	Reg. No. 35303	Robert J. Irvine	Reg. No. 41865
Leif R. Sigmond, Jr.	Reg. No. 35680	David S. Harper	Reg. No. 42636
Lawrence H. Aaronson	Reg. No. 35818	Stephen Lesavich	Reg. No. P43749
Matthew J. Sampson	Reg. No. 35999	Enrique Perez	Reg. No. P43853
Curt J. Whitenack	Reg. No. 36054	Marcus J. Thymian	Reg. No. P43954
Christopher M. Cavan	Reg. No. 36475	Emanuel J. Vacchiano (agent)	Reg. No. P43964

Address all telephone calls to Roger P. Zimmerman at (312) 913-0001.

Address all correspondence to MCDONNELL BOEHNEN HULBERT & BERGHOFF, 300 South Wacker Drive, Chicago, Illinois 60606 USA.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Karl W. Hasel

Inventor's signature: 

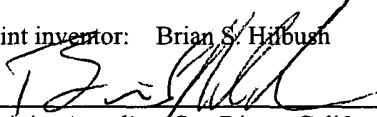
Date: 11/7/99

Residence: 247 South Nardo Ave., Solana Beach, California 92075

Citizenship: United States of America

Post Office Address: 247 South Nardo Ave., Solana Beach, California 92075

Full name of second joint inventor: Brian S. Hulbush

Inventor's signature: 

Date: 1/7/99

Residence: 13058 Caminito Angelico, San Diego, California 92130

Citizenship: United States of America

Post Office Address: 13058 Caminito Angelico, San Diego, California 92130



THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney's Docket No. 98,429)

Applicant or
Patentee:

Karl W. Hasel & Brian S. Hilbush

Serial or
Patent No.

09/186,869

Filed or
Issued:

November 4, 1998

Title: **Method For Indexing And Determining The Relative Concentration Of Expressed Messenger RNA's**

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS
(37 C.F.R. § 1.9(f) AND § 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

☐
☒

the owner of the small business concern identified below:

an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN:

Digital Gene Technologies, Inc.

ADDRESS OF CONCERN:

11149 North Torrey Pines Road
Suite 110
La Jolla, California 92037

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled Method For Indexing And Determining The Relative Concentration Of Expressed Messenger RNA's by inventor(s) Karl W. Hasel & Brian S. Hilbush.

described in

☐ the specification filed herewith.
☒ Application Serial No. 09/186,869, filed November 4, 1998.
☐ Patent No. _____, issued _____.

If the rights held by the above identified small business concern are not exclusive, each individual concern or organization having rights in the invention must file verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR § 1.9(d), or a nonprofit organization under 37 CFR § 1.9(e).

Each person, concern or organization having any rights to the invention is listed below:

☒ No such person, concern or organization exists.
☐ Each such person, concern or organization is listed below.

FULL NAME _____

ADDRESS _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME _____

ADDRESS _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights in the invention averring to their status as small entities. (37 CFR § 1.27).

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing therein, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING:

Robert J. Sutcliffe

TITLE IN ORGANIZATION:

President and Chief Executive Officer

ADDRESS OF PERSON SIGNING:

Digital Gene Technologies, Inc.
11149 North Torrey Pines Road
Suite 110
La Jolla, California 92037

Signature:

A handwritten signature in cursive script, appearing to read "Robert J. Sutcliffe", written over a horizontal line.

Date:

A handwritten date "January 7, 1999" written in cursive script over a horizontal line.